

Aging Division

Wyoming Department of Health

Information and Education Bulletin

Subject: New ADA Guidelines

On Thursday, September 25, 2008, the President signed into law: S. 3406, the "ADA Amendments Act of 2008," which clarifies and broadens the definition of disability and expands the population eligible for protections under the Americans with Disabilities Act of 1990. It is now Public Law No: 110-325.

This new law will make significant changes to the Americans with Disabilities Act guidelines, requirements, and regulations. They include:

Section 4 -

Amends the Americans with Disabilities Act of 1990 (ADA) to redefine the term "disability," including by defining "major life activities" and "being regarded as having such an impairment."

Sets forth rules of construction regarding the definition of "disability," including that: (1) such term shall be construed in favor of broad coverage of individuals under the Act; (2) an impairment that substantially limits one major life activity need not limit other major life activities in order to be a disability; (3) an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active; and (4) the determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of specified mitigating measures.

Section 5 -

Prohibits employment discrimination against a qualified individual on the basis of disability. (Current law prohibits employment discrimination against a qualified individual with a disability because of the disability.)

Prohibits the use of qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be related to the position and is consistent with business necessity.

Section 6 -

Declares that nothing in the Act: (1) alters the standards for determining eligibility for benefits under state worker's compensation laws or under state and federal disability benefit programs; (2) alters the requirement to make reasonable modifications in policies or procedures, unless such modifications would fundamentally alter the nature of the goods, services, facilities, or accommodations involved; or (3) provides the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of disability.

Declares that the authority of the Equal Employment Opportunity Commission (EEOC), the Attorney General, and the Secretary of Transportation to issue regulations includes the authority to issue regulations implementing the definitions of this Act.

Section 7 -

Makes conforming amendments to the Rehabilitation Act of 1973.

Rev: 10-21-2008